

110TH CONGRESS
1ST SESSION

S. 1363

To improve health care for severely injured members and former members
of the Armed Forces, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2007

Mrs. CLINTON (for herself and Mr. DURBIN) introduced the following bill;
which was read twice and referred to the Committee on Armed Services

A BILL

To improve health care for severely injured members and
former members of the Armed Forces, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bridging the Gap for
5 Wounded Warriors Act”.

6 **SEC. 2. HEALTH CARE FOR SEVERELY INJURED MEMBERS**
7 **OF THE ARMED FORCES.**

8 (a) IN GENERAL.—

9 (1) TREATMENT AS ON ACTIVE DUTY OF MEM-
10 BERS OTHERWISE RETIRED FOR PHYSICAL DIS-

1 ABILITY.—Any member of the Armed Forces who is
 2 medically retired because of physical disability under
 3 chapter 61 of title 10, United States Code, for a dis-
 4 ability incurred in or aggravated by service in the
 5 Armed Forces shall be treated, during the period de-
 6 scribed in paragraph (3), as a member of the Armed
 7 Forces on active duty for purposes of the entitle-
 8 ment of such member to health care services and
 9 benefits under law.

10 (2) SERVICES AND BENEFITS.—The services
 11 and benefits to which a member is entitled under
 12 paragraph (1) shall not include pay and compensa-
 13 tion for active duty.

14 (3) PERIOD OF TREATMENT.—The period for
 15 which a member of the Armed Forces shall be treat-
 16 ed as a member of the Armed Forces on active duty
 17 under paragraph (1) shall be the longer of—

18 (A) the two-year period beginning on the
 19 date on which the member is medically retired
 20 as described in that paragraph; or

21 (B) the period, if applicable, during which
 22 the member's name is on the temporary dis-
 23 ability retirement list.

24 (4) ENTITLEMENT TO HEALTH CARE.—Each
 25 member of the Armed Forces treated under para-

graph (1) as a member of the Armed Forces on active duty shall be entitled, while so treated, to any health care services and benefits to which a member of the Armed Forces on active duty is otherwise entitled under law.

(5) CONSTRUCTION.—The treatment under paragraph (1) of a member of the Armed Forces as a member of the Armed Forces on active duty shall not be construed to affect or alter the treatment of the member as medically retired, or on active duty, as applicable, for any other purpose under any other applicable provision of law.

(b) MEMBERS RECEIVING CARE FROM DEPARTMENT OF VETERANS AFFAIRS.—

(1) TREATMENT AS VETERAN.—Any member of the Armed Forces on active duty who receives health care and services from the Department of Veterans Affairs for a wound, injury, or illness incurred in or aggravated by service in the Armed Forces for which the member would otherwise be eligible for medical retirement because of physical disability under chapter 61 of title 10, United States Code, shall, during the period described in paragraph (3), be treated as a veteran for purposes of the entitlement of such member to health care services and benefits under

1 the laws administered by the Secretary of Veterans
2 Affairs.

3 (2) SERVICES AND BENEFITS.—The services
4 and benefits to which a member is entitled under
5 paragraph (1) shall not include pay and compensa-
6 tion for active duty.

7 (3) PERIOD OF TREATMENT.—The period for
8 which a member of the Armed Forces shall be treat-
9 ed as a veteran under paragraph (1) shall be the
10 longer of—

11 (A) the two-year period beginning on the
12 date on which the member incurs or aggravates
13 the wound or injury providing the basis of such
14 treatment under that paragraph; or

15 (B) the period during which the member is
16 assigned to the Department of Veterans Affairs
17 for purposes of receipt of health care services
18 and benefits from the Department.

19 (4) ENTITLEMENT TO HEALTH CARE.—Each
20 member of the Armed Forces treated under para-
21 graph (1) as a veteran shall be entitled, while so
22 treated, to any health care services and benefits to
23 which a veteran with a service-connected disability,
24 in accordance with the clinical needs of such veteran,

1 would be entitled under the laws administered by the
2 Secretary of Veterans Affairs.

3 (5) COST OF CARE.—The costs of any health
4 care and services furnished under this subsection
5 shall be borne by the Secretary of Defense. The Sec-
6 retary of Defense and the Secretary of Veterans Af-
7 fairs shall enter into a memorandum of under-
8 standing setting forth mechanisms for the payment
9 of such costs by the Secretary of Defense.

10 (6) CONSTRUCTION.—The treatment under
11 paragraph (1) of a member of the Armed Forces as
12 a veteran shall not be construed—

13 (A) to affect or alter the treatment of the
14 member as a member of the Armed Forces on
15 active duty; or

16 (B) to affect, alter, or impair the eligibility
17 or entitlement of the member for benefits under
18 the laws administered by the Secretary of Vet-
19 erans Affairs or the Secretary of Defense after
20 separation, release, or retirement from the
21 Armed Forces.

22 (c) EFFECTIVE DATE.—This section shall take effect
23 for members of the Armed Forces wounded or injured on
24 or after October 7, 2001. However, no compensation is

1 payable under this section for any period before the date
 2 of the enactment of this Act.

3 **SEC. 3. JOINT DEPARTMENT OF DEFENSE–DEPARTMENT**
 4 **OF VETERANS AFFAIRS OFFICE FOR COORDI-**
 5 **NATION OF ASSISTANCE DURING TRANSI-**
 6 **TION OF MEMBERS OF THE ARMED FORCES**
 7 **FROM MILITARY SERVICE TO CIVILIAN LIFE.**

8 (a) OFFICE.—

9 (1) ESTABLISHMENT.—The Secretary of De-
 10 fense and the Secretary of Veterans Affairs shall
 11 jointly establish a joint office for the Department of
 12 Defense and the Department of Veterans Affairs for
 13 the coordination of assistance to members of the
 14 Armed Forces in their transition from service in the
 15 Armed Forces to civilian life.

16 (2) NAME.—The office established under para-
 17 graph (1) shall be known as the “Department of De-
 18 fense–Department of Veterans Affairs Office of
 19 Transition” (in this section referred to as the “Of-
 20 fice”).

21 (b) LEADERSHIP.—

22 (1) DIRECTOR.—The Director of the Depart-
 23 ment of Defense–Department of Veterans Affairs
 24 Office of Transition shall be the head of the Office.
 25 The Director shall be an individual as follows:

1 (A) During the one-year period beginning
2 on the date of the enactment of this Act, and
3 every second one-year period thereafter, the Di-
4 rector shall be an official of the Department of
5 the Veterans Affairs assigned to that position
6 by the Secretary of Veterans Affairs from
7 among officials of the Department of Veterans
8 Affairs having civilian rank equivalent to the
9 military grade of brigadier general or rear ad-
10 miral (lower half).

11 (B) During each one-year period not cov-
12 ered by subparagraph (A), the Director shall be
13 a member of the Armed Forces on active duty
14 assigned to that position by the Secretary of
15 Defense from among members of the Armed
16 Forces on active duty in the grade of brigadier
17 general or rear admiral (lower half).

18 (2) DEPUTY DIRECTOR.—The Deputy Director
19 of the Department of Defense—Department of Vet-
20 erans Affairs Office of Transition shall be the dep-
21 uty director of the Office. The Deputy Director shall
22 be an individual as follows:

23 (A) During the one-year period beginning
24 on the date of the enactment of this Act, and
25 every second one-year period thereafter, the

1 Deputy Director shall be a member of the
2 Armed Forces on active duty assigned to that
3 position by the Secretary of Defense from
4 among members of the Armed Forces on active
5 duty in the grade of brigadier general or rear
6 admiral (lower half).

7 (B) During each one-year period not cov-
8 ered by subparagraph (A), the Deputy Director
9 shall be an official of the Department of the
10 Veterans Affairs assigned to that position by
11 the Secretary of Veterans Affairs from among
12 officials of the Department of Veterans Affairs
13 having civilian rank equivalent to the military
14 grade of brigadier general of rear admiral
15 (lower half).

16 (3) ACCESS.—The Director shall have direct ac-
17 cess to the Secretary of Defense and the Secretary
18 of Veterans Affairs regarding the discharge of the
19 functions of the Office.

20 (c) FUNCTIONS.—The functions of the Office shall
21 include, but not be limited to, the following:

22 (1) The development and implementation of
23 policies originating in the Office of the Secretary of
24 Defense that pertain to the transition of members of
25 the Armed Forces from service in the Armed Forces

1 to civilian life and the resolution of policy issues that
2 arise between the Department of Defense and the
3 Department of Veterans Affairs on matters relating
4 to the continuity of care and benefits for members
5 of the Armed Forces from the Department of De-
6 fense and the Department of Veterans Affairs dur-
7 ing and after the transition from service in the
8 Armed Forces to civilian life.

9 (2) To develop a standard medical record for
10 both the Department of Defense and the Depart-
11 ment of Veterans Affairs.

12 (3) With respect to members of the Armed
13 Forces undergoing discharge, separation, or release
14 from the Armed Forces, to develop an electronic
15 standard certificate of release or discharge from ac-
16 tive duty for transfer to the Department of Veterans
17 Affairs.

18 (4) To develop uniform standards, to be appli-
19 cable across the military departments and to the De-
20 partment of Veterans Affairs, for the physical exam-
21 ination to be provided to members of the Armed
22 Forces immediately before discharge, separation, or
23 release from the Armed Forces.

24 (5) To develop uniform standards, to be appli-
25 cable across the military departments and to the De-

1 partment of Veterans Affairs, for the rating of dis-
2 abilities incurred or aggravated by members of the
3 Armed Forces during service in the Armed Forces.

4 (6) To establish uniform policies, where prac-
5 ticable, on the provision of pay and allowances for
6 travel for members of the Armed Forces, and their
7 designated caregivers (if appropriate), who are re-
8 ceiving health care benefits from the Department of
9 Defense or the Department of Veterans Affairs at
10 the time of discharge, separation, or release from
11 the Armed Forces.

12 (7) Oversight of the establishment by the mili-
13 tary departments of policies to ensure that members
14 of the Armed Forces who, at the time of discharge,
15 separation, or release from the Armed Forces re-
16 quire medical care or counseling for a wound, injury,
17 or condition incurred or aggravated in service in the
18 Armed Forces, receive the care and services (includ-
19 ing case management services) they require during
20 discharge, separation, or release from the Armed
21 Forces and thereafter.

22 (8) To improve the sharing between the De-
23 fense Finance and Accounting Service and the De-
24 partment of Veterans Affairs of information to fa-
25 cilitate the payment of retired pay, compensation,

1 and other post-separation benefits to members of the
2 armed forces undergoing discharge, separation, re-
3 lease, or retirement from the armed forces, and their
4 dependents or survivors, including information nec-
5 essary for the payment of—

6 (A) retired or retirement pay;

7 (B) veterans disability compensation, in-
8 cluding concurrent receipt of veterans disability
9 compensation and retired pay;

10 (C) combat-related special compensation
11 under section 1413 of title 10, United States
12 Code;

13 (D) benefits under the Survivor Benefit
14 Plan and veterans dependency and indemnity
15 compensation; and

16 (E) such other pay or benefits to which
17 such members, and the dependents or survivors,
18 are entitled.

19 (9) To develop protocols for the collaboration of
20 the Department of Defense and the Department of
21 Veterans Affairs in the use of medical facilities
22 shared by the Departments, for the allocation of
23 costs for such use, and for the sharing of pertinent
24 research information between the Department of De-
25 fense and the Department of Veterans Affairs.

1 (10) To provide for the sharing between the
2 Department of Defense and the Department of Vet-
3 erans Affairs of best practices on care, treatment,
4 and services for individuals and their family mem-
5 bers for conditions incident to wounds or injuries in-
6 curred in combat, including, but not limited to, men-
7 tal health conditions (including post-traumatic stress
8 disorder (PTSD)), traumatic brain injury (TBI),
9 limb function loss (including burns, broken and frac-
10 tured bones, amputations), vision problems, and spi-
11 nal cord injuries.

12 (11) To monitor the efficiency and effectiveness
13 of the Polytrauma Rehabilitation Centers of the De-
14 partment, the Centers of Excellence of the Office of
15 Research and Development of the Department of
16 Veterans Affairs, and appropriate medical treatment
17 facilities.

18 (12) To perform the functions of the Office of
19 Seamless Transition as transferred to the Office by
20 subsection (h).

21 (13) To resolve policy issues that arise between
22 and among the military departments and the De-
23 partment of Veterans Affairs on matters relating to
24 care and benefits for members of the Armed Forces

1 undergoing discharge, separation, release, or retire-
2 ment from the Armed Forces.

3 (d) RESOLUTION OF POLICY ISSUES.—Any resolution
4 by the Office of a policy issue under paragraph (13) sub-
5 section (c) that involves a military department shall be
6 subject to the approval of the Secretary of Defense. Any
7 resolution by the Office of a policy issue under that para-
8 graph that involves the Department of Veterans Affairs
9 shall be subject to the approval of the Secretary of Vet-
10 erans Affairs.

11 (e) PARTICIPATION OF OTHER AGENCY PER-
12 SONNEL.—The Secretary of Defense and the Secretary of
13 Veterans Affairs shall, with the consent of the head of the
14 department or agency concerned, provide for the participa-
15 tion in the activities of the Office of such personnel from
16 other departments and agencies of the Federal Govern-
17 ment having responsibilities relating to the transition of
18 members of the Armed Forces from service in the Armed
19 Forces to civilian life as is necessary to ensure the effective
20 coordination of the activities of the Office with the activi-
21 ties of such departments and agencies relating to the tran-
22 sition of members of the Armed Forces from service in
23 the Armed Forces to civilian life.

24 (f) REPORTS AND BRIEFINGS.—

1 (1) BRIEFING REQUIRED.—Not later than six
2 months after the date of the establishment of the
3 Office, and every six months thereafter, the Director
4 of the Department of Defense—Department of Vet-
5 erans Affairs Office of Transition shall submit to the
6 Department of Veterans Affairs—Department of De-
7 fense Joint Executive Committee, and to the appro-
8 priate committees of Congress, a briefing on the ac-
9 tivities of the Office during the six-month period
10 ending on the date of such report.

11 (2) ANNUAL REPORTS REQUIRED.—The Direc-
12 tor of the Department of Defense—Department of
13 Veterans Affairs Office of Transition shall on an an-
14 nual basis submit to the Department of Veterans Af-
15 fairs—Department of Defense Joint Executive Com-
16 mittee, and to the appropriate committees of Con-
17 gress, a report on the Office. Each report under this
18 paragraph shall include the following:

19 (A) A description and assessment of the
20 activities of the Office during the year pre-
21 ceding the year in which such report is sub-
22 mitted.

23 (B) A discussion of the activities proposed
24 for the Office during the year in which the re-
25 port is submitted, including schedules for as-

1 sessments, recommendations, and implementa-
2 tion of such activities.

3 (3) APPROPRIATE COMMITTEES OF CONGRESS
4 DEFINED.—In this subsection, the term “appro-
5 priate committees of Congress” means—

6 (A) the Committees on Armed Services
7 and Veterans’ Affairs of the Senate; and

8 (B) the Committees on Armed Services
9 and Veterans’ Affairs of the House of Rep-
10 resentatives.

11 (g) BIENNIAL ASSESSMENT BY GAO.—Not later
12 than two years after the date of the enactment of this Act,
13 and every two years thereafter, the Comptroller General
14 of the United States shall submit to the appropriate com-
15 mittees of Congress (as defined in subsection (f)(3)) a re-
16 port setting forth the assessment of the Comptroller Gen-
17 eral of the progress made by the Defense–Department of
18 Veterans Affairs Office of Transition in carrying out its
19 functions under subsection (c).

20 (h) TRANSFER OF OFFICE OF SEAMLESS TRANSI-
21 TION.—

22 (1) IN GENERAL.—The responsibilities, func-
23 tions, and powers of the Office of Seamless Transi-
24 tion of the Department of Veterans Affairs are here-

1 by transferred to the Department of Defense–De-
 2 partment of Veterans Affairs Office of Transition.

3 (2) TERMINATION.—The responsibilities of the
 4 Office of Seamless Transition of the Department of
 5 Veterans Affairs are hereby terminated.

6 (i) TRANSFER OF RESPONSIBILITIES OF APPLICABLE
 7 DoD OFFICES.—The Secretary of Defense shall provide
 8 for the transfer to the Department of Defense–Depart-
 9 ment of Veterans Affairs Office of Transition of such
 10 functions and responsibilities of offices and elements of
 11 the Office of the Secretary of Defense as the Secretary
 12 considers appropriate, consistent with the functions of the
 13 Defense–Department of Veterans Affairs Office of Transi-
 14 tion under subsection (c), to facilitate the discharge by
 15 the Office of its functions under that subsection.

16 (j) JOINT EXECUTIVE COMMITTEE.—Section
 17 320(a)(2) of title 38, United States Code, is amended—

18 (1) in subparagraph (A), by striking “and” at
 19 the end;

20 (2) in subparagraph (B), by striking the period
 21 at the end and inserting “; and”; and

22 (3) by adding at the end the following new sub-
 23 paragraph:

24 “(C) the Director of the Department of De-
 25 fense–Department of Veterans Affairs Office of

1 Transition and the Deputy Director of the Depart-
 2 ment of Defense—Department of Veterans Affairs
 3 Office of Transition.”.

4 (k) FUNDING.—The Secretary of Defense and the
 5 Secretary of Veterans Affairs shall jointly make available
 6 from the DOD–VA Health Care Sharing Incentive Fund
 7 each fiscal year such amounts as are required for the ac-
 8 tivities of the Department of Defense—Department of Vet-
 9 erans Affairs Office of Transition during such fiscal year.

10 **SEC. 4. REFORM OF DISABILITY RATING SYSTEMS OF THE**
 11 **DEPARTMENT OF DEFENSE AND THE DE-**
 12 **PARTMENT OF VETERANS AFFAIRS.**

13 (a) ACTIONS FOLLOWING DETERMINATION OF
 14 UNFITNESS FOR DUTIES.—

15 (1) IN GENERAL.—Except as provided in para-
 16 graph (3), each member of the Armed Forces who
 17 is determined by the Secretary of the military de-
 18 partment concerned to be unfit to perform the duties
 19 of the member’s office, grade, rank, or rating be-
 20 cause a physical disability described in section
 21 1201(a) or 1203(a) of title 10, United States Code,
 22 shall—

23 (A) be evaluated by a disability ratings
 24 team of the Department of Veterans Affairs at
 25 the military medical treatment facility at which

1 the member is currently receiving care for pur-
2 poses of the assignment of a prestabilization
3 disability rating, if applicable; and

4 (B)(i) if determined pursuant to evaluation
5 under subparagraph (A) to have a
6 prestabilization rating of 50 percent or 100 per-
7 cent disabled (as determined in accordance with
8 the provisions of section 4.28 of title 38, Code
9 of Federal Regulations), be placed on the tem-
10 porary disability retired list to receive com-
11 pensation from the Department of Veterans Af-
12 fairs in accordance with such prestabilization
13 rating of disability, pending the assignment of
14 a final disability rating by a disability ratings
15 team of the Department of Veterans Affairs; or

16 (ii) if determined pursuant to evaluation
17 under subparagraph (A) not to qualify for a
18 prestabilization rating described in clause (i), be
19 further evaluated by a disability ratings team of
20 the Department of Veterans Affairs at the mili-
21 tary medical treatment facility at which the
22 member is currently receiving care for purposes
23 of assigning a final disability rating to the
24 member while still on active duty.

1 (2) DOCUMENTATION OF DETERMINATIONS.—

2 The Secretary of the military department concerned
3 shall document, in writing, each determination of
4 unfitness made as described in paragraph (1).

5 (3) APPEAL OF DETERMINATION OF

6 UNFITNESS.—Any member of the Armed Forces
7 subject to a determination of unfitness to perform
8 the duties of the member's office, grade, rank, or
9 rating described in paragraph (1) may appeal that
10 determination under such procedures as the Sec-
11 retary of Defense shall prescribe for purposes of this
12 paragraph. Such procedures shall include—

13 (A) mechanisms for the appeal of a deter-
14 mination of unfitness;

15 (B) procedures and standards for the con-
16 sideration of any such appeal; and

17 (C) mechanisms for the return of the
18 member to active duty in the event the mem-
19 ber's appeal is successful.

20 (b) UTILIZATION OF FINAL DISABILITY RATING.—

21 The Secretary of Defense shall utilize the final disability
22 rating that was documented by the Secretary of the mili-
23 tary department concerned as rendering a member of the
24 Armed Forces unfit for duty for purposes of determining
25 the eligibility of the member for retirement pay and other

1 benefits under the laws administered by the Secretary of
2 Defense.

3 (c) REPEAL OF LIMITATION ON COMMENCEMENT OF
4 PERIOD OF PAYMENT.—

5 (1) REPEAL.—Section 5111 of title 38, United
6 States Code, is repealed.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of chapter 51 of such title is
9 amended by striking the item relating to section
10 5111.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
12 hereby authorized to be appropriated such sums as may
13 be necessary to carry out this section.

14 **SEC. 5. REPORTS ON PROGRAMS OF DEPARTMENT OF DE-**
15 **FENSE AND DEPARTMENT OF VETERANS AF-**
16 **FAIRS FOR THE ASSESSMENT AND TREAT-**
17 **MENT OF WOUNDED MEMBERS OF THE**
18 **ARMED FORCES.**

19 (a) PRELIMINARY REPORT.—Not later than 120 days
20 after the date of the enactment of this Act, the Comp-
21 troller General of the United States shall submit to Con-
22 gress a preliminary assessment of the extent to which
23 medical facilities of the Department of Defense and the
24 Department of Veterans Affairs offer interdisciplinary

1 medical treatment for wounded members of the Armed
2 Forces.

3 (b) FINAL REPORT.—

4 (1) IN GENERAL.—Not later than one year the
5 date of the enactment of this Act, the Comptroller
6 General shall submit to Congress a final report on
7 the extent to which medical facilities of the Depart-
8 ment of Defense and the Department of Veterans
9 Affairs offer interdisciplinary medical treatment for
10 wounded members of the Armed Forces.

11 (2) CONTENTS.—The report required by para-
12 graph (1) shall include a comprehensive assessment
13 of medical facilities of the Department of Defense
14 and the Department of Veterans Affairs that offer
15 services in each of the following areas:

16 (A) Mental health.

17 (B) Behavioral neurology.

18 (C) Neurology, including treatment of
19 traumatic epilepsy.

20 (D) Physical rehabilitation.

21 (E) Vocational training.

22 (F) Any other health care areas that the
23 Comptroller General considers appropriate.

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